

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 05-CV-40072 FDS

LANDWORKS CREATIONS, LLC)
)
Plaintiff)
)
v.)
)
UNITED STATES FIDELITY & GUARANTY COMPANY)
)
Defendant)

REPLY OF PLAINTIFF, LANDWORKS CREATIONS, LLC (“LANDWORKS”) TO
DEFENDANT, UNITED STATES FIDELITY & GUARANTY COMPANY’S
COUNTERCLAIM

Now comes the Plaintiff, Landworks Creations, LLC and replies to the Counterclaim as follows:

1. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
2. Admitted
3. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
4. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
5. Admitted, to the extent that the document speaks for itself
6. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same

7. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
8. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
9. Admitted, to the extent that the document speaks for itself
10. Denied
11. Denied
12. Denied
13. Denied that any work was substandard. As the balance of the allegations, the Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
14. The Defendant in Counterclaim lacks sufficient information to admit or deny and calls upon the Plaintiff in Counterclaim to prove the same
15. The Defendant in Counterclaim restates its replies as if specifically stated herein.
16. Denied
17. Denied
18. The Defendant in Counterclaim restates its replies as if specifically stated herein.
19. Denied
20. Denied

FIRST AFFIRMATIVE DEFENSE

Any conduct described herein alleged against Landworks was the conduct of third parties for whose conduct Landworks was not responsible and cannot be held responsible as a matter of law.

SECOND AFFIRMATIVE DEFENSE

USF & G has failed to state a claim upon which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

The claims brought against the Named Defendant are a breach of M.G.L. c. 231 §6F, and its federal equivalent within the federal law, and F. R. C. P. 11.

FOURTH AFFIRMATIVE DEFENSE

The claim is barred by the doctrine of laches

FIFTH AFFIRMATIVE DEFENSE

The claim is barred by the doctrine of estoppel

SIXTH AFFIRMATIVE DEFENSE

The claim is barred by USF & G's own unclean hands

SEVENTH AFFIRMATIVE DEFENSE

The claim is barred by the doctrine of waiver

EIGHTH AFFIRMATIVE DEFENSE

The claim is not yet ripe

LANDWORKS DEMAND A TRIAL BY JURY

Respectfully Submitted,
Landworks Creations, LLC
By its attorney,

s/Robert N. Meltzer
Robert N. Meltzer, BBO #564745
P.O. Box 1459
Framingham, MA 01701
Phone: (508) 872-7116

June 21, 2006

CERTIFICATE OF SERVICE

I, Robert N. Meltzer, do hereby certify that on this day I served a copy of the foregoing on all counsel of record by mailing the same, postage prepaid, to:

Hermes, Netburn, O'Connor & Spearing
265 Franklin Street, Seventh Floor
Boston, MA 02109
Attn: Eric Hipp, Esq.

s/Robert N. Meltzer

June 21, 2006